

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**THE CITY OF HUNTINGTON and
CABELL COUNTY COMMISSION,
Plaintiffs,**

v.

CIVIL ACTION NO. 3:17-01362

**AMERISOURCEBERGEN DRUG
CORPORATION, et al.,
Defendants.**

PLAINTIFFS' NOTICE OF DECISION

Plaintiffs, the Cabell County Commission and the City of Huntington, submit this *Response by the Court to DEA's Motion for Clarification of Suggestion for Remand*, attached hereto as Exhibit 1, issued on Friday, April 17th by Judge Dan Aaron Polster in MDL 2804, *In Re: National Prescription Opiate Litigation*, as an authority relevant to this Court's consideration of Defendants' Motion to Compel Discovery Responses from DEA.

Defendants' Motion to Compel, filed in this action on April 14, 2020, seeks to enforce their subpoena on the DEA, which was served initially only on February 21, 2020 and included thirty-six (36), often expansive requests for production, including numerous requests seeking information outside of West Virginia. *See, e.g.*, Request No. 15 ("All documents reflecting or relating to DEA's policies and procedures and training with respect to distribution or dispensing controlled substances for the treatment of pain,"); Request 30 ("All Documents and Communications concerning the determination of Aggregate Production Quotas for Prescription Opioids during the Relevant Time Period"); Request 36 ("All Documents and Communications between DEA registrants and the Office of Diversion Control's Liaison and Policy Section relating to registrants' obligations under 21 C.F.R. § 1301.74).

By contrast, Plaintiffs' subpoena to the DEA, first served in October and then supplemented with an additional subpoena last month, each included only nine (9) requests, all relating to specific customers of Defendants in West Virginia.¹

Dated: April 20, 2020

Respectfully submitted,

THE CITY OF HUNTINGTON

CABELL COUNTY COMMISSION

/s/ Linda Singer

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¹ Requests Nos. 5 through 9 of Plaintiffs' first Subpoena, relating to guidance the DEA provided to pharmacies, became moot when those defendants were severed from the trial track before this Court. See Exhibit 2, Plaintiffs' First Touhy Request to DEA; Exhibit 3, Plaintiffs' Third Touhy Request to DEA.

CERTIFICATE OF SERVICE

I hereby certify that service of the foregoing was filed electronically via the CM/ECF electronic filing system on April 20, 2020 and served on all counsel registered in the system.

/s/ Natalie Deyneka

Natalia Deyneka (WVSB No. 12978)

MOTLEY RICE LLC